



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 4, 2003

Ms. Alice Caruso
Assistant Disclosure Officer
Information Release
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2003-6208

Dear Ms. Caruso:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 187102.

The Texas Workforce Commission (the "Commission") received two requests from the same requestor for information relating to the initial claims filed by two named individuals. You inform us that the Commission will release responsive information that the Commission does not consider confidential. You assert the remaining requested information is excepted from disclosure under sections 552.101 and 552.107 of the Government Code. We reviewed the information you submitted and considered the exceptions you claim.

Initially, we note that section 552.301(e) of the Government Code requires, in pertinent part, a governmental body that requests an attorney general decision under section 552.301(a) to submit to the attorney general, within a reasonable time, but not later than the fifteenth business day after the date of receiving the request, a copy of the specific information requested, or representative samples of it if a voluminous amount of the information was requested. *See Gov't Code § 552.301(e)*. You state the Commission will submit a representative sample of the requested information; however, to date, the Commission has not submitted to this office any portion of the requested information for our review. Therefore, we find that the Commission failed to request a decision from our office in accordance with section 552.301 of the Government Code.

Because the Commission failed to comply with the procedural requirements of section 552.301, the requested information is now presumed public. See Gov't Code § 552.302; see also *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.—Austin 1990, no writ); *City of Houston v. Houston Chronicle Publ'g Co.*, 673 S.W.2d 316, 323 (Tex. App.—Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The Commission must demonstrate a compelling interest to overcome the presumption that the information is now public. See *id.* Because the Commission did not submit any portion of the requested information to this office for our review, we have no basis for finding the information confidential. Thus, we have no choice but to order the information released in accordance with section 552.302. If you believe the information is confidential and may not lawfully be released, you must challenge the ruling in court as outlined below.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

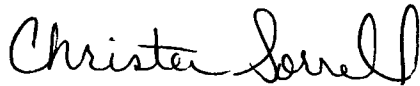
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, reading "Christen Sorrell".

Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/seg

Ref: ID# 187102

Enc: Submitted documents

c: Mr. Scott M. McElhaney
Jackson Walker, L.L.P.
901 Main Street, Suite 6000
Dallas, Texas 75202
(w/o enclosures)